

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
IN ADMIRALTY

Case No. 7:22-cv-00224-M-RJ

ZIMMERMAN MARINE, INCORPORATED, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
S/V PAQUITO (O.N. 1127766), her boats, )  
dinghies, tackle, apparel, furniture, engines, and )  
appurtenances, etc., *in rem*, )  
 )  
Defendant. )  
 )

ORDER

These matters come before the court on the Plaintiff's motion for interlocutory sale [DE 20] and motion for default judgment [DE 22]. Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), United States Magistrate Judge Robert B. Jones, Jr. issued a memorandum and recommendation ("M&R"), recommending that this court grant Plaintiff's motions. DE 26. To date, no objections to the M&R have been filed.<sup>1</sup>

A magistrate judge's recommendation carries no presumptive weight. The court "may accept, reject, or modify, in whole or in part, the . . . recommendation[ ] . . . receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection

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<sup>1</sup> Judge Jones issued the M&R on June 21, 2023. Accordingly, objections were due on or before July 5, 2023. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(2); Local Civil Rule 72.4(b). The parties' motions and M&R were submitted to this court for disposition on July 10, 2023.

is made.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the M&R and the record presented, and finding no clear error, this court ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, Plaintiff’s motion for default judgment [DE 22] is GRANTED. The Clerk of the Court shall enter Judgment against the Defendant, in rem, in the amount of \$11,900.00, with judgment interest thereon at the applicable rate, and the costs of this action -- \$5,000 for arrest by the U.S. Marshal; \$636 through April 6, 2023, plus \$10/day for fourteen days through April 20, 2023 (\$140) and, thereafter, \$10/day through today’s date (\$820) for a total of \$1,596 for the substitute custodian fee; and \$350 for the filing fee -- taxed against Defendant.

In addition, Plaintiff’s motion for interlocutory sale [DE 20] is GRANTED. The United States Marshal is authorized to sell the Vessel with her boats, dinghies, tackle, apparel, furniture, engines, and appurtenances, etc. to the highest bidder at a public auction in accordance with Supplemental Rule E(9) and Local Rule E.12. At the sale, the Plaintiff is allowed to credit bid in the amount of its lien or in the amount of its judgment if entered prior to the sale. The proceeds of the sale shall be paid into the court’s registry subject to further disposition by the court.

SO ORDERED this 12<sup>th</sup> day of July, 2023.

  
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RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE